

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ENCORE PROPERTY MANAGEMENT OF WESTERN
NEW YORK, LLC,

Appellant,

vs.

WELLS FARGO BANK, NA, as Trustee,

Appellee.

**NOTICE OF MOTION TO
DISMISS**

Civil Action No.: 18-cv-06173

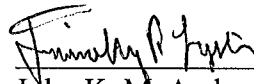
PLEASE TAKE NOTICE that, on behalf of Appellee Wells Fargo Bank, NA, as Trustee, and upon the Affidavit of Timothy P. Lyster, Esq. in support of expedited/emergency relief, dated May 17, 2018, and the Affidavit of Timothy P. Lyster, Esq. and Memorandum of Law, each dated May 17, 2018 in support of Appellee's motion to dismiss, together with the exhibits annexed thereto, the undersigned hereby moves this Court, pursuant to Rule 8013(a)(1) for an order: (i) dismissing the appeal as moot based upon the foreclosure sale of the Appellant's property having taken place; and/or (ii) dismissing the appeal based upon Appellant's failure to perfect and prosecute the appeal; and (iii) such other relief as the Court deems proper.

PLEASE TAKE FURTHER NOTICE that the scheduling of adjudication of Appellee's motion to dismiss is as set forth by the Court pursuant to the Court's scheduling order, dated May __, 2018, annexed hereto.

Dated: May 17, 2018
Rochester, New York

WOODS OVIATT GILMAN LLP

By:



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